

ASSEMBLY BILL NO. 140—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON SENIOR CITIZENS, VETERANS AND ADULTS WITH SPECIAL NEEDS)

FEBRUARY 14, 2019

Referred to Committee on Judiciary

SUMMARY—Prohibits discrimination against persons with a physical disability in certain proceedings relating to children. (BDR 11-172)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to child welfare; prohibiting discrimination against persons who are deaf, legally blind or otherwise physically disabled in certain proceedings relating to children; authorizing the Nevada Equal Rights Commission to investigate and resolve certain complaints alleging such discrimination; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law prohibits discrimination on the basis of disability in public
2 accommodation, housing and employment. (NRS 118.100, 613.330, 651.070,
3 651.075) **Sections 1, 2, 4, 5 and 10-12** of this bill prohibit a court from
4 discriminating against a person in a proceeding concerning child custody or
5 visitation, adoption, guardianship or child protection solely because the person
6 seeking custody or visitation, adoption, guardianship or child protection is deaf, is
7 legally blind or has another physical disability. However, **sections 1, 2, 4, 5 and 12**
8 also expressly authorize a court to decide against a person who is deaf, is legally
9 blind or has another physical disability if it finds, based on evidence presented to
10 the court, that the person’s physical disability is likely to cause or contribute to or is
11 causing or contributing to circumstances that are detrimental to the best interests of
12 the child.
13 **Section 3** of this bill similarly prohibits an agency which provides child welfare
14 services or a child placing agency from determining that a prospective adoptive
15 home is unsuitable for placement or detrimental to the interest of the child solely
16 because the prospective adoptive parent or parents are deaf, are legally blind or
17 have another physical disability, but authorizes such an agency to make such a



18 determination if it finds, based on its investigation, that the physical disability of
19 the prospective adoptive parent or parents is likely to cause or contribute to
20 circumstances that are detrimental to the best interests of the child if the child is
21 placed in the home. **Section 3** also authorizes a prospective adoptive parent injured
22 by a determination of an agency which provides child welfare services or a child
23 placing agency which is contrary to these provisions to file a complaint with the
24 Nevada Equal Rights Commission. **Sections 6-9** of this bill authorize the
25 Commission to investigate and resolve such a complaint in the same manner as it
26 investigates and resolves other complaints over which it has jurisdiction.

27 Existing law prohibits an agency which provides child welfare services from
28 taking any action to remove a child from custody of the person responsible for the
29 child's welfare if the agency determines there is no reasonable cause to believe the
30 child is in need of protection. (NRS 432B.370) Existing law also authorizes a court
31 that finds a child to be in need of protection to: (1) allow the child to remain in the
32 custody of the parent or guardian of the child under such conditions as the court
33 may prescribe; or (2) place the child in the custody of another person or certain
34 agencies or institutions authorized to care for children. (NRS 432B.550) **Section 10**
35 of this bill provides that a child is not in need of protection solely because a person
36 responsible for the welfare of the child is deaf, is legally blind or has another
37 physical disability.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 125C of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *A court shall not deny custody or visitation rights to a person*
4 *solely because the person is deaf, is blind or has another physical*
5 *disability, but may deny custody or visitation rights to such a*
6 *person if it finds, based on evidence presented to the court, that the*
7 *person's physical disability is likely to cause or contribute to*
8 *circumstances that are detrimental to the best interests of the child*
9 *if the person is awarded custody or visitation rights. As used in*
10 *this section, "blind" has the meaning ascribed to it in*
11 *NRS 426.082.*

12 **Sec. 2.** NRS 127.150 is hereby amended to read as follows:

13 127.150 1. If the court finds that the best interests of the child
14 warrant the granting of the petition, an order or decree of adoption
15 must be made and filed, ordering that henceforth the child is the
16 child of the petitioners. When determining whether the best interests
17 of the child warrant the granting of a petition that is filed by a foster
18 parent, the court shall give strong consideration to the emotional
19 bond between the child and the foster parent. A copy of the order or
20 decree must be sent to the nearest office of the agency which
21 provides child welfare services by the petitioners within 7 days after
22 the order or decree is issued. In the decree the court may change the
23 name of the child, if desired.



1 2. Except as otherwise provided in this subsection, an order or
2 decree of adoption may not be made until after the child has lived
3 for 6 months in the home of the petitioners. This subsection does not
4 apply if one of the petitioners is the stepparent of the child or is
5 related to the child within the third degree of consanguinity.

6 3. If the court is not satisfied that the proposed adoption is in
7 the best interests of the child, the court shall deny the petition and
8 may order the child returned to the custody of the person or agency
9 legally vested with custody. *The court shall not deny a petition
10 solely because the petitioner is deaf, is blind or has another
11 physical disability, but may deny a petition if it finds, based on
12 evidence presented to the court, that the petitioner's physical
13 disability is likely to cause or contribute to circumstances that are
14 detrimental to the best interests of the child if the petition is
15 granted. As used in this subsection, "blind" has the meaning
16 ascribed to it in NRS 426.082.*

17 4. After a petition for adoption has been granted, there is a
18 presumption that remaining in the home of the adopting parent is in
19 the child's best interest.

20 **Sec. 3.** NRS 127.2817 is hereby amended to read as follows:

21 127.2817 1. The Division, in consultation with each agency
22 which provides child welfare services, shall adopt regulations
23 setting forth the criteria to be used by an agency which provides
24 child welfare services or a child-placing agency for determining
25 whether a prospective adoptive home is suitable or unsuitable for
26 the placement of a child for adoption.

27 2. Upon the completion of an investigation conducted by an
28 agency which provides child welfare services or a child-placing
29 agency pursuant to NRS 127.120 or 127.2805, the agency which
30 provides child welfare services or child-placing agency shall inform
31 the prospective adoptive parent or parents of the results of the
32 investigation. If, pursuant to the investigation, a determination is
33 made that a prospective adoptive home is unsuitable for placement
34 or detrimental to the interest of the child, the agency which provides
35 child welfare services or child-placing agency shall provide the
36 prospective adoptive parent or parents with an opportunity to review
37 and respond to the investigation with the agency which provides
38 child welfare services or child-placing agency before the issuance of
39 the results of the investigation. Except as otherwise provided in
40 NRS 239.0115, the identity of those persons who are interviewed or
41 submit information concerning the investigation must remain
42 confidential.

43 3. *An agency which provides child welfare services or a child
44 placing agency shall not determine that a prospective adoptive
45 home is unsuitable for placement or detrimental to the interest of*



1 *the child solely because the prospective adoptive parent or parents*
2 *are deaf, are blind or have another physical disability, but may*
3 *determine that a prospective adoptive home is unsuitable for*
4 *placement or detrimental to the interest of the child if it finds,*
5 *based on its investigation, that the physical disability of the*
6 *prospective adoptive parent or parents is likely to cause or*
7 *contribute to circumstances that are detrimental to the best*
8 *interests of the child if the child is placed in the home. As used in*
9 *this subsection, "blind" has the meaning ascribed to it in*
10 *NRS 426.082.*

11 *4. A prospective adoptive parent injured by a determination of*
12 *an agency which provides child welfare services or a child placing*
13 *agency that violates subsection 3 may file a complaint to that*
14 *effect with the Nevada Equal Rights Commission.*

15 **Sec. 4.** NRS 159A.054 is hereby amended to read as follows:

16 159A.054 1. If the court finds that the proposed protected
17 minor is not in need of a guardian, the court shall dismiss the
18 petition.

19 2. If the court finds that appointment of a guardian is required,
20 the court shall appoint a guardian of the proposed protected minor's
21 person, estate, or person and estate.

22 *3. The court shall not find that a proposed protected minor is*
23 *in need of a guardian solely because the person currently*
24 *responsible for the proposed protected minor is deaf, is blind or*
25 *has another physical disability, but may find that a proposed*
26 *protected minor is in need of a guardian if it finds, based on*
27 *evidence presented to the court, that the physical disability of the*
28 *person currently responsible for the proposed protected minor is*
29 *causing or contributing to circumstances that are detrimental to*
30 *the best interests of the proposed protected minor. As used in this*
31 *subsection, "blind" has the meaning ascribed to it in*
32 *NRS 426.082.*

33 **Sec. 5.** NRS 159A.061 is hereby amended to read as follows:

34 159A.061 1. The parents of a proposed protected minor, or
35 either parent, if qualified and suitable, are preferred over all others
36 for appointment as guardian for the person or estate or person and
37 estate of the proposed protected minor. The appointment of a parent
38 as guardian for the person or estate of a proposed protected minor
39 must not conflict with a valid order for custody of the proposed
40 protected minor.

41 2. Except as otherwise provided in subsection 4, if a parent of a
42 proposed protected minor files a petition seeking appointment as
43 guardian for the proposed protected minor, the parent is presumed to
44 be suitable to serve as guardian for the proposed protected minor.



1 3. In determining whether the parents of a proposed protected
2 minor, or either parent, or any other person who seeks appointment
3 as guardian for the proposed protected minor is qualified and
4 suitable, the court shall consider, if applicable and without
5 limitation:

6 (a) Which parent has physical custody of the proposed protected
7 minor;

8 (b) The ability of the parents, parent or other person to provide
9 for the basic needs of the proposed protected minor, including,
10 without limitation, food, shelter, clothing and medical care, taking
11 into consideration any special needs of the proposed protected
12 minor;

13 (c) Whether the parents, parent or other person has engaged in
14 the habitual use of alcohol or any controlled substance during the
15 previous 6 months, except the use of marijuana in accordance with
16 the provisions of chapter 453A of NRS;

17 (d) Whether the parents, parent or other person has been
18 convicted of a crime of moral turpitude, a crime involving domestic
19 violence or a crime involving the abuse, neglect, exploitation,
20 isolation or abandonment of a child, his or her spouse, his or her
21 parent or any other adult;

22 (e) Whether the parents, parent or other person has been
23 convicted in this State or any other jurisdiction of a felony; and

24 (f) Whether the parents, parent or other person has engaged in
25 one or more acts of domestic violence against the proposed
26 protected minor, a parent of the proposed protected minor or any
27 other person who resides with the proposed protected minor.

28 4. A parent of a proposed protected minor is presumed to be
29 unsuitable to care for the proposed protected minor if:

30 (a) The parent is unable to provide for any or all of the basic
31 needs of the proposed protected minor, including, without
32 limitation:

- 33 (1) Food;
- 34 (2) Shelter;
- 35 (3) Clothing;
- 36 (4) Medical care; and
- 37 (5) Education;

38 (b) Because of action or inaction, the parent poses a significant
39 safety risk of either physical or emotional danger to the proposed
40 protected minor; or

41 (c) The proposed protected minor has not been in the care,
42 custody and control of the parent for the 6 months immediately
43 preceding the filing of the petition. The presumption created by this
44 paragraph is a rebuttable presumption.



1 5. Subject to the preference set forth in subsection 1 and except
2 as otherwise provided in subsection 7, the court shall appoint as
3 guardian the qualified person who is most suitable and is willing to
4 serve.

5 6. In determining which qualified person is most suitable, the
6 court shall, in addition to considering any applicable factors set forth
7 in subsections 2, 3 and 4, give consideration, among other factors,
8 to:

9 (a) Any nomination of a guardian for the proposed protected
10 minor contained in a will or other written instrument executed by a
11 parent of the proposed protected minor.

12 (b) Any request made by the proposed protected minor, if he or
13 she is 14 years of age or older, for the appointment of a person as
14 guardian for the proposed protected minor.

15 (c) The relationship by blood or adoption of the proposed
16 guardian to the proposed protected minor. In considering
17 preferences of appointment, the court may consider relatives of the
18 half blood equally with those of the whole blood. The court may
19 consider relatives in the following order of preference:

- 20 (1) Parent.
- 21 (2) Adult sibling.
- 22 (3) Grandparent.
- 23 (4) Uncle or aunt.

24 (d) Any recommendation made by a master of the court or
25 special master pursuant to NRS 159A.0615.

26 (e) Any recommendation made by:

27 (1) An agency which provides child welfare services, an
28 agency which provides child protective services or a similar agency;
29 or

30 (2) A guardian ad litem or court appointed special advocate
31 who represents the proposed protected minor.

32 (f) Any request for the appointment of any other interested
33 person that the court deems appropriate.

34 7. The court may award temporary guardianship pursuant to
35 this section, supported by findings of suitability, pending a trial or
36 evidentiary hearing if that appointment is supported by findings.

37 8. Notwithstanding the presumption set forth in subsection 4,
38 in the event of competing petitions for the appointment of
39 guardianship of a proposed protected minor, any finding of
40 unsuitability of a parent of the proposed protected minor must be
41 found by clear and convincing evidence after a hearing on the merits
42 or an evidentiary hearing.

43 9. In determining whether to appoint a guardian of the person
44 or estate of a proposed protected minor and who should be



1 appointed, the court must always act in the best interests of the
2 proposed protected minor.

3 10. *A court shall not refuse to appoint a person as a guardian*
4 *of the person or estate of a proposed protected minor solely*
5 *because the person is deaf, is blind or has another physical*
6 *disability, but may refuse to appoint a person as the guardian of*
7 *the person or estate of a proposed protected minor if it finds, based*
8 *on evidence presented to the court, that the person's physical*
9 *disability is likely to cause or contribute to circumstances that are*
10 *detrimental to the best interests of the proposed protected minor if*
11 *the person is so appointed. As used in this subsection, "blind" has*
12 *the meaning ascribed to it in NRS 426.082.*

13 11. As used in this section, "agency which provides child
14 welfare services" has the meaning ascribed to it in NRS 432B.030.

15 **Sec. 6.** NRS 233.150 is hereby amended to read as follows:

16 233.150 The Commission may:

17 1. Order its Administrator to:

18 (a) With regard to public accommodation, investigate tensions,
19 practices of discrimination and acts of prejudice against any person
20 or group because of race, color, creed, sex, age, disability, sexual
21 orientation, national origin, ancestry or gender identity or expression
22 and may conduct hearings with regard thereto.

23 (b) With regard to housing, investigate tensions, practices of
24 discrimination and acts of prejudice against any person or group
25 because of race, color, creed, sex, age, disability, sexual orientation,
26 gender identity or expression, national origin or ancestry, and may
27 conduct hearings with regard thereto.

28 (c) With regard to employment, investigate:

29 (1) Tensions, practices of discrimination and acts of
30 prejudice against any person or group because of race, color, creed,
31 sex, age, disability, sexual orientation, gender identity or expression,
32 national origin or ancestry, and may conduct hearings with regard
33 thereto; and

34 (2) Any unlawful employment practice by an employer
35 pursuant to the provisions of NRS 613.4353 to 613.4383, inclusive,
36 and may conduct hearings with regard thereto.

37 (d) *With regard to adoption, investigate acts by agencies which*
38 *provide child welfare services, as defined in NRS 432B.030, and*
39 *child placing agencies that violate subsection 3 of NRS 127.2817.*

40 2. Mediate between or reconcile the persons or groups involved
41 in those tensions, practices and acts.

42 3. Issue subpoenas for the attendance of witnesses or for the
43 production of documents or tangible evidence relevant to any
44 investigations or hearings conducted by the Commission.



1 4. Delegate its power to hold hearings and issue subpoenas to
2 any of its members or any hearing officer in its employ.

3 5. Adopt reasonable regulations necessary for the Commission
4 to carry out the functions assigned to it by law.

5 **Sec. 7.** NRS 233.160 is hereby amended to read as follows:

6 233.160 1. A complaint which alleges unlawful
7 discriminatory practices in:

8 (a) Housing must be filed with the Commission not later than 1
9 year after the date of the occurrence of the alleged practice or the
10 date on which the practice terminated.

11 (b) Employment, ~~for~~ public accommodations *or adoption* must
12 be filed with the Commission not later than 300 days after the date
13 of the occurrence of the alleged practice.

14 ↪ A complaint is timely if it is filed with an appropriate federal
15 agency within that period. A complainant shall not file a complaint
16 with the Commission if any other state or federal administrative
17 body or officer which has comparable jurisdiction to adjudicate
18 complaints of discriminatory practices has made a decision upon a
19 complaint based upon the same facts and legal theory.

20 2. The complainant shall specify in the complaint the alleged
21 unlawful practice and sign it under oath.

22 3. The Commission shall send to the party against whom an
23 unlawful discriminatory practice is alleged:

24 (a) A copy of the complaint;

25 (b) An explanation of the rights which are available to that
26 party; and

27 (c) A copy of the Commission's procedures.

28 **Sec. 8.** NRS 233.180 is hereby amended to read as follows:

29 233.180 If, after the Administrator has conducted a preliminary
30 investigation into an alleged unlawful discriminatory practice in
31 housing, employment, ~~for~~ public accommodations ~~for~~ *or adoption*,
32 the Commission determines that the practice will cause immediate
33 and irreparable harm to any person aggrieved by the practice, the
34 Commission, after the informal meeting and before holding a public
35 hearing upon the matter, may apply on behalf of such person to the
36 district court for a temporary restraining order or preliminary
37 injunction as provided in the Nevada Rules of Civil Procedure.

38 **Sec. 9.** NRS 233.190 is hereby amended to read as follows:

39 233.190 1. Except as otherwise provided in this section or
40 NRS 239.0115, any information gathered by the Commission in the
41 course of its investigation of an alleged unlawful discriminatory
42 practice in housing, employment, ~~for~~ public accommodations *or*
43 *adoption* is confidential.

44 2. The Commission may disclose information gathered
45 pursuant to subsection 1 to:



1 (a) Any governmental entity as appropriate or necessary to carry
2 out its duties pursuant to this chapter; or

3 (b) To any other person if the information is provided in a
4 manner which does not include any information that may be used to
5 identify the complainant, the party against whom the unlawful
6 discriminatory practice is alleged or any person who provided
7 information to the Commission during the investigation.

8 3. Except as otherwise provided in subsection 4, the
9 Commission shall disclose information gathered pursuant to
10 subsection 1 to the complainant and the party against whom the
11 unlawful discriminatory practice is alleged if:

12 (a) Each has consented to such disclosure; or

13 (b) The Commission has determined to conduct a hearing on the
14 matter or apply for a temporary restraining order or an injunction or
15 an action has been filed in court concerning the complaint.

16 4. The Commission may not disclose to the complainant or the
17 party against whom the unlawful discriminatory practice is alleged:

18 (a) Any information obtained during negotiations for a
19 settlement or attempts at mediating or conciliating the complaint.

20 (b) Any investigative notes or reports made by the Commission.

21 (c) Any information that may be used to identify a person who
22 provided information to the Commission during the investigation
23 and who has requested anonymity.

24 5. Except as otherwise provided in this section or NRS
25 239.0115, if the Commission's attempts at mediating or conciliating
26 the cause of the grievance succeed, the information gathered
27 pursuant to subsection 1 must remain confidential.

28 6. If the Commission proceeds with a hearing or applies for
29 injunctive relief, confidentiality concerning any information, except
30 negotiations for a settlement or attempts at mediating or conciliating
31 the cause of the grievance, is no longer required.

32 **Sec. 10.** NRS 432B.330 is hereby amended to read as follows:

33 432B.330 1. A child is in need of protection if:

34 (a) The child has been abandoned by a person responsible for
35 the welfare of the child;

36 (b) The child has been subjected to abuse or neglect by a person
37 responsible for the welfare of the child;

38 (c) The child is in the care of a person responsible for the
39 welfare of the child and another child has:

40 (1) Died as a result of abuse or neglect by that person; or

41 (2) Been subjected to abuse by that person, unless the person
42 has successfully completed a plan for services that was
43 recommended by an agency which provides child welfare services
44 pursuant to NRS 432B.340 to address the abuse of the other child;



1 (d) The child has been placed for care or adoption in violation of
2 law; or

3 (e) The child has been delivered to a provider of emergency
4 services pursuant to NRS 432B.630.

5 2. A child may be in need of protection if the person
6 responsible for the welfare of the child:

7 (a) Is unable to discharge his or her responsibilities to and for
8 the child because of incarceration, hospitalization, or other physical
9 or mental incapacity;

10 (b) Fails, although the person is financially able to do so or has
11 been offered financial or other means to do so, to provide for the
12 following needs of the child:

13 (1) Food, clothing or shelter necessary for the child's health
14 or safety;

15 (2) Education as required by law; or

16 (3) Adequate medical care;

17 (c) Has been responsible for the neglect of a child who has
18 resided with that person; or

19 (d) Has been responsible for the abuse of another child
20 regardless of whether that person has successfully completed a plan
21 for services that was recommended by an agency which provides
22 child welfare services pursuant to NRS 432B.340 to address the
23 abuse of the other child.

24 3. A child may be in need of protection if the death of a parent
25 of the child is or may be the result of an act by the other parent that
26 constitutes domestic violence pursuant to NRS 33.018.

27 4. A child may be in need of protection if the child is identified
28 as being affected by a fetal alcohol spectrum disorder or prenatal
29 substance abuse or as having withdrawal symptoms resulting from
30 prenatal drug exposure.

31 5. *A child is not in need of protection solely because the*
32 *person responsible for the welfare of the child is deaf, is blind, as*
33 *defined in NRS 426.082, or has another physical disability.*

34 6. As used in this section:

35 (a) "Abuse" means:

36 (1) Physical or mental injury of a nonaccidental nature; or

37 (2) Sexual abuse or sexual exploitation,

38 ↪ of a child caused or allowed by a person responsible for the
39 welfare of the child under circumstances which indicate that the
40 child's health or welfare is harmed or threatened with harm. The
41 term does not include the actions described in subsection 2 of
42 NRS 432B.020.

43 (b) "Allow" means to do nothing to prevent or stop the abuse or
44 neglect of a child in circumstances where the person knows or has
45 reason to know that a child is abused or neglected.



1 (c) "Neglect" means abandonment or failure to:

2 (1) Provide for the needs of a child set forth in paragraph (b)
3 of subsection 2; or

4 (2) Provide proper care, control and supervision of a child as
5 necessary for the well-being of the child because of the faults or
6 habits of the person responsible for the welfare of the child or the
7 neglect or refusal of the person to provide them when able to do so.

8 ↪ The term does not include the actions described in subsection 2
9 of NRS 432B.020.

10 **Sec. 11.** NRS 432B.480 is hereby amended to read as follows:

11 432B.480 1. At each hearing conducted pursuant to
12 NRS 432B.470:

13 (a) At the commencement of the hearing, the court shall advise
14 the parties of their right to be represented by an attorney and of their
15 right to present evidence.

16 (b) The court shall determine whether there is reasonable cause
17 to believe that it would be:

18 (1) Contrary to the welfare of the child for the child to reside
19 at his or her home; or

20 (2) In the best interests of the child to place the child outside
21 of his or her home.

22 ↪ The court shall prepare an explicit statement of the facts upon
23 which each of its determinations is based. *The court shall not make*
24 *an affirmative finding regarding either subparagraph (1) or (2)*
25 *solely because the person responsible for the welfare of the child is*
26 *deaf, is blind, as defined in NRS 426.082, or has another physical*
27 *disability.* If the court makes an affirmative finding regarding either
28 subparagraph (1) or (2), the court shall issue an order keeping the
29 child in protective custody pending a disposition by the court.

30 (c) The court shall determine whether the child has been placed
31 in a home or facility that complies with the requirements of NRS
32 432B.3905. If the placement does not comply with the requirements
33 of NRS 432B.3905, the court shall establish a plan with the agency
34 which provides child welfare services for the prompt transfer of the
35 child into a home or facility that complies with the requirements of
36 NRS 432B.3905.

37 2. If the court issues an order keeping the child in protective
38 custody pending a disposition by the court and it is in the best
39 interests of the child, the court may:

40 (a) Place the child in the temporary custody of a grandparent,
41 great-grandparent or other person related within the fifth degree of
42 consanguinity to the child who the court finds has established a
43 meaningful relationship with the child, with or without supervision
44 upon such conditions as the court prescribes, regardless of whether
45 the relative resides within this State; or



1 (b) Grant the grandparent, great-grandparent or other person
2 related within the fifth degree of consanguinity to the child a
3 reasonable right to visit the child while the child is in protective
4 custody.

5 3. If the court finds that the best interests of the child do not
6 require that the child remain in protective custody, the court shall
7 order the immediate release of the child.

8 4. If a child is placed with any person who resides outside this
9 State, the placement must be in accordance with NRS 127.330.

10 **Sec. 12.** NRS 432B.550 is hereby amended to read as follows:

11 432B.550 1. If the court finds that a child is in need of
12 protection, it may, by its order, after receipt and review of the report
13 from the agency which provides child welfare services:

14 (a) Permit the child to remain in the temporary or permanent
15 custody of the parents of the child or a guardian with or without
16 supervision by the court or a person or agency designated by the
17 court, and with or without retaining jurisdiction of the case, upon
18 such conditions as the court may prescribe;

19 (b) Place the child in the temporary or permanent custody of a
20 relative, a fictive kin or other person the court finds suitable to
21 receive and care for the child with or without supervision, and with
22 or without retaining jurisdiction of the case, upon such conditions as
23 the court may prescribe; or

24 (c) Place the child in the temporary custody of a public agency
25 or institution authorized to care for children, the local juvenile
26 probation department, the local department of juvenile services or a
27 private agency or institution licensed by the Department of Health
28 and Human Services or a county whose population is 100,000 or
29 more to care for such a child.

30 ↪ In carrying out this subsection, the court may, in its sole
31 discretion and in compliance with the requirements of chapter 159A
32 of NRS, consider an application for the guardianship of the child. If
33 the court grants such an application, it may retain jurisdiction of the
34 case or transfer the case to another court of competent jurisdiction.

35 2. *The court shall not deny placement of a child in the*
36 *temporary or permanent custody of a person pursuant to*
37 *subsection 1 solely because the person is deaf, is blind or has*
38 *another physical disability, but may refuse to place a child in the*
39 *temporary or permanent custody of a person if it finds, based on*
40 *evidence presented to the court, that the person's physical*
41 *disability is likely to cause or contribute to circumstances that are*
42 *detrimental to the best interests of the child if the child is placed in*
43 *the custody of the person. As used in this subsection, "blind" has*
44 *the meaning ascribed to it in NRS 426.082.*



1 **3.** If, pursuant to subsection 1, a child is placed other than with
2 a parent:

3 (a) The parent retains the right to consent to adoption, to
4 determine the child's religious affiliation and to reasonable
5 visitation, unless restricted by the court. If the custodian of the child
6 interferes with these rights, the parent may petition the court for
7 enforcement of the rights of the parent.

8 (b) The court shall set forth good cause why the child was
9 placed other than with a parent.

10 ~~3.~~ **4.** If, pursuant to subsection 1, the child is to be placed
11 with a relative or fictive kin, the court may consider, among other
12 factors, whether the child has resided with a particular relative or
13 fictive kin for 3 years or more before the incident which brought the
14 child to the court's attention.

15 ~~4.~~ **5.** Except as otherwise provided in this subsection, a copy
16 of the report prepared for the court by the agency which provides
17 child welfare services must be sent to the custodian and the parent
18 or legal guardian. If the child was delivered to a provider of
19 emergency services pursuant to NRS 432B.630:

20 (a) The parent who delivered the child to the provider shall be
21 deemed to have waived his or her right to a copy of the report; and

22 (b) A copy of the report must be sent to the parent who did not
23 deliver the child to the provider, if the location of such parent is
24 known.

25 ~~5.~~ **6.** In determining the placement of a child pursuant to this
26 section, if the child is not permitted to remain in the custody of the
27 parents of the child or guardian:

28 (a) It must be presumed to be in the best interests of the child to
29 be placed together with the siblings of the child.

30 (b) Preference must be given to placing the child in the
31 following order:

32 (1) With any person related within the fifth degree of
33 consanguinity to the child or a fictive kin, and who is suitable and
34 able to provide proper care and guidance for the child, regardless of
35 whether the relative or fictive kin resides within this State.

36 (2) In a foster home that is licensed pursuant to chapter 424
37 of NRS.

38 ~~6.~~ **7.** Any search for a relative with whom to place a child
39 pursuant to this section must be completed within 1 year after the
40 initial placement of the child outside of the home of the child. If a
41 child is placed with any person who resides outside of this State, the
42 placement must be in accordance with NRS 127.330.

43 ~~7.~~ **8.** Within 60 days after the removal of a child from the
44 home of the child, the court shall:



1 (a) Determine whether:

2 (1) The agency which provides child welfare services has
3 made the reasonable efforts required by paragraph (a) of subsection
4 1 of NRS 432B.393; or

5 (2) No such efforts are required in the particular case; and

6 (b) Prepare an explicit statement of the facts upon which its
7 determination is based.

8 ~~8.1~~ **9.** As used in this section, “fictive kin” means a person
9 who is not related by blood to a child but who has a significant
10 emotional and positive relationship with the child.

11 **Sec. 13.** This act becomes effective on July 1, 2019.



